

REMARKS/ARUGMENTS**Claim rejections under 35 U.S.C. §112**

The Examiner has rejected claims 1-20 under 35 U.S.C. §112, second paragraph. Specifically, the Examiner cites independent claims 1, 9, 12, and 18 as containing the limitation “said handle,” which does not have sufficient antecedent basis. Claims 1, 9, 12, and 18 have been amended accordingly by deleting this limitation and replacing the term “handle” with the terms “proximal end,” the latter of which has sufficient antecedent. In view of these amendments, it is respectfully submitted that this rejection has been overcome.

Claim rejections under 35 U.S.C. §102:

The Examiner has further rejected claim 1 under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,516,598 to Notaras (hereinafter “Notaras”). For the following reasons, the Applicant respectfully traverses this rejection.

In order for a claim to be rejected under 35 U.S.C. §102, the cited reference must disclose, either expressly or inherently, all the elements and limitations of the claim. *See Kalman v. Kimberly-Clark*, 218 U.S.P.Q. 781 (Fed. Cir. 1983). If even one element or limitation of the claim is missing, a §102 rejection fails. Moreover, the prior art reference must disclose each element of the claimed invention “arranged as in the claim.” *See Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481. 485 (Fed. Cir. 1984) (citing *Connell V. Sears, Roebuck & Co.*, 220 USPQ 193 (Fed. Cir. 1983)).

In rejecting claim 1, the Examiner contends that Notaras discloses a “debris guard (Fig. 11, item 130) comprising an upper shield portion (140) and a lower shield portion (140)” (Examiner’s Action, page 3). The structure that the Examiner cites, however, does not comprise a debris guard as described and claimed in the present application. Instead, what the Examiner describes as a debris guard (130) is actually an external gearbox casing (see, eg., Col. 9, line 67 – col. 10, line 1). This gearbox casing is an entirely different structure with a completely different function compared to the debris guard limitation of Claim 1. Specifically, the gearbox casing of Notaras covers and protects the underlying power directing gimbals that serve to adjust the cutting assembly from a mowing position to a trimming position (Col. 9, lines 18-33). The gearbox casing does not prevent debris generated by the cutting blades from blowing onto the operator. Consequently, because there is no teaching or suggestion in Notaras of this express limitation of claim 1, it is respectfully submitted that claim 1, including claims 2-8 dependent thereon, are patentable in view of Notaras,

The Examiner has also rejected claim 9 under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 3,735,831 to Gray (hereinafter "Gray"). In support of his rejection, the Examiner contends that the cart disclosed in Gray contains "a substantially U-shaped mounting device (Figs. 4-5: the combination of 42, 43, 44) secured to the frame." (Examiner's Action, page 4). The Examiner also contends that Gray comprises a debris guard, citing Fig. 5, item D (Examiner's Action, page 3). Again, it is respectfully submitted that Gray fails to teach or disclose every limitation of Applicant's claim 9. First and foremost, the apparatus described and illustrated in Gray is not designed at all to carry and operate a lawn trimmer of any design. The Gray apparatus is designed to transport items, such as bundles of bricks, concrete blocks, and the like, from one location to another (see col. 1, lines 1-5). Gray does not disclose a debris guard of any sort. The component on the Gray apparatus that the Examiner cites as a "debris guard" is actually a "vertical member D" that is secured to a fork member E, the combination of which is designed to carry the articles to be transported. Moreover, it is clearly a stretch to argue that elements 42, 43, 44 of Gray are a U-shaped mounting device configured to maintain a fuel tank of a lawn trimmer. These structures are part of the overall frame, being attached to the handles and vertical member D. These structures are not configured to support the motor tank of any design of any type of lawn trimmer. Therefore, because there is no teaching or suggestion of a debris guard or U-shaped mounting device configured to maintain a fuel tank of a lawn trimmer, two express limitations of claim 9, it is respectfully submitted that claim 9, including claims 10-11 dependent thereon, are patentable in view of Gray.

The Examiner also argues that claim 9 is anticipated under 35 U.S.C. §102 by Notaras. As discussed above with respect to claim 1, Notaras does not teach or disclose a debris guard, which is an express limitation of claim 9, as well. Moreover, Notaras does not disclose any type of mounting device, U-shaped or otherwise, for supporting a fuel tank of a lawn trimmer, U-shaped or otherwise. The component of the Notaras device that the Examiner cites as a U-shaped mounting device, referenced generally at 16 (Examiner's Action, page 4), is actually a ground contacting leg stand (see Figs. 1 and 4, and col. 7, line 1-16). This ground contacting leg stand does not support the motor of the cutting device nor is it designed do so. Thus, since Notaras fails to teach or disclose two express limitations of Claim 9, it is respectfully submitted that neither claim 9, nor dependent claims 10-11, are anticipated by Notaras.

The Examiner has also rejected claim 12 as being anticipated by Notaras. Like claims 1 and 9, claim 12 also contains the limitation of a debris guard, which is clearly absent from the

Notaras reference, as described above. Moreover, there is no teaching or suggestion in Notaras of the throttle control assembly as claimed in claim 12. The Examiner contends that Notaras discloses “a throttle control assembly (21) secured to the frame, and comprising an actuation device, a lever assembly (best seen in Fig. 10), and a cable having one end secured to the throttle actuation device and an opposite end secured to the lever assembly, the lever assembly oriented on the frame such that at least a portion of the lever assembly is positioned near a throttle trigger to the trimmer.” (Examiner’s Action, page 5). The Examiner further admits that certain elements are not shown, as being inherent. It is not clear what elements the Examiner is referring to as being “inherent,” although it is assumed the Examiner is suggesting that the cable and throttle trigger of the lawn trimmer itself are the common, inherent components. The Applicant agrees that motorized law trimmers have throttle triggers, and moreover, that the actuation of the throttle trigger may be accomplished via a cable actuated by some means. However, these are not the only limitations of claim 12. There is no teaching or suggestion whatsoever in Notaras of the lever assembly as claimed, which is secured to a cable and positioned near the throttle trigger of the trimmer. In fact, such a throttle assembly is not even necessary in the Notaras apparatus, since the Notaras apparatus is not designed to carry a lawn trimmer that is a separate component, and therefore capable of operation without the cart. Instead, the trimmer in Notaras is a permanent component of the device. That is, the wheels, handles, and support frame are an integrally and permanently attached to the Notaras trimmer, unlike the Applicant’s invention, which in some embodiments (and as described in claim 12), includes such a throttle assembly designed to actuate the lawn trimmer placed thereon. If the Applicant’s cart were not being used by the operator, or if the other embodiments of Applicant’s invention were employed that do not comprise the throttle assembly as claimed in claim 12, then the operator would simply actuate the motor and control the throttle of the lawn trimmer via the actuation switch and throttle present on the actual lawn trimmer itself. Thus, in view of the fact that Notaras does not disclose or teach two express limitations of claim 12, namely the debris guard and throttle control assembly (in particular the lever assembly of the throttle control assembly and its arrangement with respect to the cable trimmer motor), it is respectfully submitted that claim 12, including claims 13-17 dependent thereon, is not anticipated by Notaras.

Finally, the Examiner has rejected claim 18 as being anticipated by Notaras. Claim 18 includes the limitation of a debris guard, U-shaped mounting device for maintaining a motor/fuel tank assembly of a lawn trimmer, and a throttle control assembly. In view of the arguments submitted above with respect to these limitations and the lack of disclosure of these express

limitations in Notaras, it is respectfully submitted that claim 18, including dependent claims 19-20, are not anticipated by Notaras.

Change of Correspondence Address:

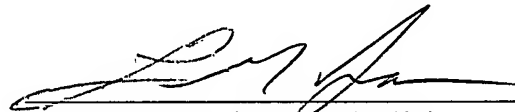
The Applicant's undersigned attorney of record has moved and is no longer working with the firm of Hahn Loeser + Parks, LLP. Therefore, please change the correspondence address for the application to the following:

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Conclusion:

In view of the foregoing amendments and remarks, it is respectfully submitted that claims 1-20 are patentable in view of the cited art, and thus withdrawal of the Examiner's rejections under 35 U.S.C. §112 and §102 is hereby requested.

Respectfully submitted,



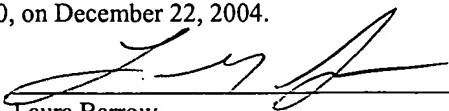
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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, 2004.



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